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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,401	07/28/2003	Herman Spencer JR.	TRIRG-01004US0	7215

28554 7590 05/18/2007  
VIERRA MAGEN MARCUS & DENIRO LLP  
575 MARKET STREET SUITE 2500  
SAN FRANCISCO, CA 94105

EXAMINER
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JONES, HUGH M

ART UNIT	PAPER NUMBER
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2128

MAIL DATE	DELIVERY MODE
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05/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/629,401	Applicant(s) SPENCER ET AL.	
	Examiner Hugh Jones	Art Unit 2128	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                      |                                                                    |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>5/11/2007</u> .                          |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date _____.                                                         | 6) <input type="checkbox"/> Other: _____.                          |

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

The Examiner called Applicants to discuss a few issues prior to allowance. These included:

Claim 23 recites, "wherein the step of finding a door gap comprises code". A step cannot comprise code.

Claim 23 recites, "comparing the first and second crossings". It was agreed that this phrase should be changed to comparing the first and second crossing edges.

Agreement was not reached on whether there was a missing step between the comparing and the finding of the door gap.

### DETAILED ACTION

1. Claims 13, 23-25 of U. S. Application 10/629,401, filed 7/28/2003, are pending.

#### Priority

2. The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

3. The disclosure of the prior-filed application, Application No. 60/398,924, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. It is noted that there are at least six more pages in the non-provisional application than in the provisional application. A specific showing of support for the claimed invention in the provisional application is required in order to traverse this finding.

#### Drawings

4. The drawings are objected to because the text in fig. 1 is illegible. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the

immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**Claim Rejections - 35 USC § 112**

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 23 recites, "wherein the step of finding a door gap comprises code". A step cannot comprise code.
- Claim 23 recites, "*comparing the first and second crossings*".

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7. As per the telephone interview of 5/11/2007, the phrase should be changed to:

*comparing the first and second crossing edges.*

8. Claims 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. Claim 23 recites:

23. One or more processor readable storage devices having processor readable code embodied on said processor readable storage devices, said processor readable code for programming one or more processors to perform a method comprising the steps of:

- finding a door gap in the drawing;
- determining a room relative to said door; and
- marking said drawing to indicate a room definition, wherein the step of finding a door gap comprises code for performing the sub-steps of
  - selecting a first group of contact points and a second group of contact points,
  - following an outside edge of a first group of contact points until it reaches an edge that crosses between the groups,
  - following the outside edge of the second group of contact points until it reaches a second edge that crosses between the groups, and
  - comparing the first and second crossings (edges).

9. However, there is no nexus between "comparing the first and second crossing edges" and "finding a door gap". Nothing is done after the comparison, that would result in a finding of the door gap. The nexus is disclosed on page 18 of the specification:

20 reference to the s-x1 line, which will be the line from x1 - x2. These steps are repeated until an edge point is found which is not in the source group, in this case, point "S". This occurs when the length of the line compared to the previous edge line is larger than the maximum wall thickness. The line formed by the last edge point from the source group and the edge point found in the target group is considered as a gap line.

10. Any inquiry concerning this communication or earlier communications from the examiner should be:

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directed to: Dr. Hugh Jones telephone number (571) 272-3781,

Monday-Thursday 0830 to 0700 ET,

**or**

the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

**mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**


(703) 308-9051 (for formal communications intended for entry)

**or** (703) 308-1396 (for informal or draft communications, please label *PROPOSED* or *DRAFT*).

Dr. Hugh Jones

Primary Patent Examiner

May 11, 2007

  
HUGH JONES Ph.D.  
PRIMARY PATENT EXAMINER  
TECHNOLOGY CENTER 2100